

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1225**

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**Introduced by Committee on Veterans Affairs (Cook (Chair), ~~Pan (Vice Chair), Block, Gorell, Nielsen, and Yamada Atkins, Block, Beth Gaines, V. Manuel Pérez, and Williams~~)**

February 18, 2011

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~~An act to amend Section 987.85 of the Military and Veterans Code, relating to veterans. An act to add Chapter 6 (commencing with Section 8122) to Part 1 of Division 8 of the Health and Safety Code, relating to cemeteries.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1225, as amended, Committee on Veterans Affairs. ~~Veterans: veterans' farm and home purchase. Cemeteries: veteran's commemorative property.~~

*Existing law establishes the Cemetery and Funeral Bureau within the Department of Consumer Affairs.*

*Existing law prohibits a cemetery owned and operated by a city, county, or city and county from engaging in the business of selling monuments or markers, and also prohibits the cemetery's officers and employees who manage, operate, or otherwise maintain the cemetery on a day-to-day basis from engaging in the private business of selling monuments or markers.*

*This bill would prohibit the purchase, sale, or transfer of any veteran's commemorative property, as defined, except that the bill would authorize an unincorporated association and specified corporations that own or control a cemetery where veteran's commemorative property has been placed to petition the bureau for permission to sell, trade, or transfer*

*all or any part of the veteran's commemorative property. The bill would establish procedures for the bureau to grant this permission. The bill would make the violation of its provisions a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The Veterans' Farm and Home Purchase Act of 1943, administered by the Department of Veterans Affairs, provides veterans with the opportunity to acquire farms and homes, including mobilehomes. That act prohibits the department from acquiring a home in which a veteran has an interest of record except in specified instances.~~

~~This bill would make a technical, nonsubstantive change to that latter provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 6 (commencing with Section 8122) is  
2     added to Part 1 of Division 8 of the Health and Safety Code, to  
3     read:

4  
5             CHAPTER 6. VETERAN'S COMMEMORATIVE PROPERTY

6  
7     8122. For purposes of this chapter, the following definitions  
8     shall apply:

9     (a) "Bureau" means the Cemetery and Funeral Bureau  
10    established pursuant to Section 7602 of the Business and  
11    Professions Code.

12    (b) "Veteran" means a living or deceased person who meets  
13    all of the following conditions:

14    (1) Either served in the active military or naval service of the  
15    United States during a war in which the United States was engaged,  
16    or served in active duty in a force of any organized state militia,  
17    not including the inactive National Guard and not including the  
18    California National Guard when in an inactive, full-time status.

1 (2) Was released from the service otherwise than by  
2 dishonorable discharge or was furloughed to the reserve.

3 (c) “Veteran’s commemorative property” means any monument,  
4 headstone, marker, memorial, plaque, statue, vase, urn, decoration,  
5 flag holder, badge, shield, item of memorabilia, or other  
6 embellishment that meets all of the following conditions:

7 (1) Is over 50 years old.

8 (2) Identifies or commemorates any veteran or group of  
9 veterans, including, but not limited to, any veterans’ organization  
10 or any military unit, company, battalion, or division.

11 (3) Has been placed in any cemetery.

12 8123. (a) Except as provided in subdivision (b), a person shall  
13 not purchase, sell, or transfer veteran’s commemorative property.

14 (b) An unincorporated association, cemetery corporation, or  
15 religious corporation, except a municipal corporation described  
16 in Section 8137, that owns or controls a cemetery where any  
17 veteran’s commemorative property has been placed may petition  
18 the bureau for permission to sell, trade, or transfer all or any part  
19 of the veteran’s commemorative property. The bureau may approve  
20 the sale, trade, or transfer of the veteran’s commemorative  
21 property under any of the following conditions:

22 (1) The veteran’s commemorative property is at reasonable risk  
23 of physically deteriorating so that it will become unrecognizable  
24 as identifying or commemorating the veteran or group of veterans  
25 originally identified or commemorated thereby and the veteran’s  
26 commemorative property that is to be sold, traded, or transferred  
27 is replaced at its original site by a fitting replacement  
28 commemorative property, monument, or marker that appropriately  
29 identifies and commemorates the veteran or group of veterans.

30 (2) The veteran’s commemorative property is proposed to be  
31 sold, traded, or transferred to a suitable person that will preserve  
32 the current condition of the veteran’s commemorative property  
33 and place the veteran’s commemorative property in a suitable  
34 place that will commemorate the veteran or group of veterans.

35 (3) The petitioner needs to sell, trade, or transfer the veteran’s  
36 commemorative property to ensure that sufficient funds are  
37 available to suitably maintain the cemetery where the veteran’s  
38 commemorative property was placed, and the specific lot, plot,  
39 grave, burial place, niche, crypt, or other place of interment of a

1 veteran or group of veterans, so that the place will retain the  
2 respect that these hallowed places deserve.

3 (4) If the veteran's commemorative property to be sold, traded,  
4 or transferred is reasonably known to the petitioner to have been  
5 donated to the petitioner by any veterans' organization, the sale,  
6 trade, or transfer shall have been consented to by that veterans'  
7 organization.

8 (5) If the petitioner is not the owner of the veteran's  
9 commemorative property that is to be sold, traded, or transferred,  
10 the petitioner is authorized by the owner of the veteran's  
11 commemorative property to engage in the sale, trade, or transfer.

12 (6) By operation of any other law authorizing the sale, trade,  
13 or transfer of the veteran's commemorative property.

14 (c) A petition under subdivision (b) shall be delivered to the  
15 bureau. Upon receipt of the petition, the bureau shall fix a date,  
16 time, and place of the hearing. The date fixed for the hearing shall  
17 be within a reasonable time, not to exceed 100 days, after the  
18 petition is received.

19 (d) The petitioner shall serve notice of the hearing and a copy  
20 of the petition upon the persons and entities mentioned in  
21 paragraphs (1) to (6), inclusive, of subdivision (e) who could  
22 reasonably be ascertained and contacted by the petitioner and  
23 upon any other person as may be directed by the bureau. Service  
24 of the notice of hearing and petition shall be made in a manner  
25 and by a date as shall be specified by the bureau.

26 (e) At the hearing held pursuant to subdivision (c), the following  
27 persons and entities, or their representatives, may be heard:

28 (1) The petitioner.

29 (2) Any person, other than the petitioner, who is the owner of  
30 the veteran's commemorative property in question.

31 (3) Any veterans' organization that donated the veteran's  
32 commemorative property in question to the petitioner.

33 (4) The family of each veteran at whose lot, plot, grave, burial  
34 place, niche, crypt, or other place of interment the veteran's  
35 commemorative property in question is or was placed.

36 (5) The Division of Veterans Services within the Department of  
37 Veterans Affairs.

38 (6) The Department of Parks and Recreation.

39 (7) Any other member of the public who would like to offer  
40 written or oral testimony.

1 (f) *Testimony may be heard in person or by counsel or submitted*  
2 *in writing.*

3 (g) *The bureau shall render its decision in writing, within 60*  
4 *days of the hearing, and shall forward a copy of the decision to*  
5 *each person who appeared at the hearing. An order or*  
6 *determination of the bureau granting the petition, in whole or in*  
7 *part, may, at the discretion of the bureau, specify the manner in*  
8 *which the petitioner is to use or apply the proceeds of the sale,*  
9 *trade, or transfer. In particular, but not by way of limitation, if*  
10 *the petitioner is an unincorporated association or corporation*  
11 *that is subject to the Nonprofit Corporation Law (Division 2*  
12 *(commencing with Section 5000) of Title 1 of the Corporations*  
13 *Code), any order or determination of the bureau granting the*  
14 *petition, in whole or in part, may, at the discretion of the bureau,*  
15 *specify that the petitioner deposit the proceeds of the sale, trade,*  
16 *or transfer in the permanent maintenance fund maintained by the*  
17 *petitioner pursuant to the Nonprofit Corporation Law.*

18 (h) *The bureau shall adopt any regulations regarding petitions,*  
19 *hearings, and procedures under this section as may be appropriate*  
20 *to further the purposes of this section.*

21 (i) *A person who violates any provision of this section is guilty*  
22 *of a misdemeanor punishable by a fine of not less than one hundred*  
23 *dollars (\$100) or more than one thousand dollars (\$1,000) or by*  
24 *imprisonment in a county jail not less than 10 days or more than*  
25 *six months, or by both that fine and imprisonment; and in addition*  
26 *is liable for all costs, expenses, and disbursements paid or incurred*  
27 *by the person prosecuting the case.*

28 SEC. 2. *No reimbursement is required by this act pursuant to*  
29 *Section 6 of Article XIII B of the California Constitution because*  
30 *the only costs that may be incurred by a local agency or school*  
31 *district will be incurred because this act creates a new crime or*  
32 *infraction, eliminates a crime or infraction, or changes the penalty*  
33 *for a crime or infraction, within the meaning of Section 17556 of*  
34 *the Government Code, or changes the definition of a crime within*  
35 *the meaning of Section 6 of Article XIII B of the California*  
36 *Constitution.*

37 ~~SECTION 1. Section 987.85 of the Military and Veterans Code~~  
38 ~~is amended to read:~~

39 ~~987.85. The department shall not acquire a home in which the~~  
40 ~~veteran has an interest of record except in the following instances:~~

1     ~~(a) Where the application is for aid for the construction of a~~  
2     ~~home upon real property owned by the applicant and the~~  
3     ~~improvements to be constructed thereon have not been completed~~  
4     ~~as evidenced by the issuance of a certificate of occupancy.~~

5     ~~(b) Where the veteran had no interest of record in the property~~  
6     ~~at the time of filing his or her application and thereafter secured~~  
7     ~~interim financing pending the processing and approval of the~~  
8     ~~application by the department.~~

9     ~~(c) Where the application is for the purchase of a mobilehome~~  
10    ~~to be situated upon real property, or an undivided interest therein,~~  
11    ~~owned by the applicant.~~

12    ~~(d) Where the applicant is an Indian veteran and the application~~  
13    ~~is for the construction of a dwelling house or other improvements~~  
14    ~~on, or for the purchase of a mobilehome to be sited on, trust land~~  
15    ~~in which the Indian veteran has a beneficial interest or owns an~~  
16    ~~interest of record.~~

17    ~~(e) Where the application is for assistance to enable the veteran~~  
18    ~~to purchase his or her space, or share in a mobilehome park, which~~  
19    ~~is converted from a rental park to a nonprofit corporate~~  
20    ~~resident-owned park or subdivision, cooperative, or condominium~~  
21    ~~for mobilehomes, in which the veteran resides in his or her~~  
22    ~~mobilehome. A veteran applying for assistance under this~~  
23    ~~subdivision shall not be required to have his or her mobilehome~~  
24    ~~reinstalled on a permanent foundation system as a condition of~~  
25    ~~receiving the proceeds of the loan to purchase his or her space or~~  
26    ~~share of the park. This subdivision shall be implemented by the~~  
27    ~~department only to the extent that expenditures for the kind of~~  
28    ~~financial assistance to veterans enumerated herein conform to the~~  
29    ~~requirements of federal tax law with regard to the tax-exempt status~~  
30    ~~of funding instruments utilized to provide the assistance.~~